

**Meeting of the
Board of Medical Assistance Services
600 East Broad Street, Suite 1300
Richmond, Virginia**

April 9, 2002

DRAFT Minutes

Present:

Alan Bigley, M.D.
Terone B. Green
Steven Minter
James T. Parmelee
Karen Beauchamp
Elmer Neil, M.D.
Marc Wheat (via conference call)
Rose C. Chu
Manikoth G. Kurup, M.D.

Absent:

Joseph Green
H. Scott Seal

Staff:

Patrick Finnerty, Director
Cynthia Jones, Deputy Director
Mack Brankley, Assistant Director of Operations
Manju Ganeriwala, Assistant Director of
Administration and Finance
Nancy Malczewski, Public Relations Specialist
Tyris Taylor, Admin. Office Specialist III
Paige Fitzgerald, Counsel for the Board
Vicki Simmons, Policy Division
Stan Fields, Director of Medicaid Reimbursement
Michael Jay, Director of Management and Budget
N. Diana Thorpe, Director of Long Term Care

Guests:

The Honorable Jane H. Woods
Richard Grossman
H. K. Lee
Hobart Harvey
Denice K. Garner – Former Board member
Anne Leigh Kerr – Pharmacy
Stacey Poole – TAP Pharmaceuticals
Lee Koons – Abbott Labs
Gail Tason – Day Care

Call to Order

Mr. Steven Minter, Chairman of the Board, called the meeting to order at 10:08 a.m.

Chairman's Comments

Mr. Minter welcomed everyone and introduced Jane H. Woods, Secretary of Health and Human Resources and Mr. Patrick Finnerty, Director of the Department of Medical Assistance Services (DMAS). Mr. Minter asked new Board member Dr. Manikoth G. Kurup to introduce himself. Dr. Kurup is a surgical consultant for Trigon Blue Cross Blue Shield and Virginia Medicaid. He was chief of surgery at Capital Medical Center in 1997-1998 and served as president of the

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medical staff at Richmond Memorial Hospital from 1988 to 1992. Mr. Minter thanked Dr. Kurup for the introduction.

Mr. Minter stated that there was an issue regarding public comment at the December 10, 2001, Board meeting. Mr. Minter stated that according to the Bylaws, Article 7.2, public comment is allowed only if the person requests in writing, at least ten days prior to the meeting, to speak before the Board. Public comment would be limited to five minutes per person. Board member Mr. Terone Green motioned that a public comment period be included in every agenda, limited to three people. Mr. James Parmelee reminded everyone this was voted on at the December 10th meeting and it passed. Mr. Finnerty stated that "public comment" was not included on this agenda because the Department did not receive any requests by the public to address the Board at this meeting. Mr. Finnerty assured Mr. Green that "public comment" will be included in future agendas. Mr. Green withdrew his motion.

Mr. Minter stated that the Board is scheduled to meet on June 11, 2002, October 8, 2002, and added December 10, 2002, so the Board will meet four times this year. Mr. Minter asked for a motion to approve the minutes. Mr. T. Green made the motion to accept the minutes and Mr. Parmelee seconded. The vote was **9- yes (Beauchamp, Bigley, Chu, T. Green, Kurup, Minter, Neil, Parmelee and Wheat); 2-Absent.**

Presentation to Past Board Members

Mr. Minter thanked Ms. Denice Garner for eight years of service with the Board. He presented her with a gift from the Board and asked her to say a few words. Ms. Garner stated it was an honor to serve the people of the Commonwealth. She talked about how wonderful it was to work with the staff at DMAS and gave some encouraging words of advice to the Board members. Mr. Minter thanked Ms. Garner for her comments and again for her service with the Board.

Comments by the Secretary of Health and Human Resources

Secretary Woods thanked the Board for serving the citizens of Virginia. She noted that the goal of the Board is to do the best job possible to ensure health care for the needy. There is an unprecedented opportunity to find new ways to have partnerships with recipients, providers and all citizens of the Commonwealth. Mr. Minter thanked Secretary Woods for her comments. Mr. Minter commented that he and the Board looked forward to several years of service with Secretary Woods and the new Director, Patrick Finnerty.

Policy Subcommittee Report

Mr. Minter thanked Dr. Bigley for arranging a site in Petersburg for the Policy Subcommittee which met on February 26, 2002. He requested that the Board be kept apprised and informed during the regulatory approval process when regulations are released. Mr. Minter said the Board

members can be informed via e-mail if possible. Mr. Minter stated the Board members want to be more involved.

Ms. Vicki Simmons, Regulatory Coordinator, said she would appreciate feedback on whether or not the report, that is included in each Board meeting packet, continues to meet the needs of the Board. Ms. Simmons stated that if the Board Members had any general questions or on a specific item she will provide information via e-mail, U.S. mail, fax or they could discuss by phone. They should feel free to call her at (804) 786-7959. Mr. Finnerty referred the Board to "Old Business" where the report on Regulatory Activity could be found. Mr. Parmelee stated that the information furnished in this format was sufficient. Mr. Minter stated that the Policy Subcommittee, as a whole, was not aware of the process. He asked for any suggestions to communicate the information differently. The Board was in agreement so Mr. Minter told Ms. Simmons to continue the same process; and if any Board Members have questions to be brought up before the Board, to contact Ms. Nancy Malczewski at (804) 786-8096. The Board members then discussed their preference for receiving meeting packets. Mr. Minter asked the members to write their preference on how they would like to receive their packets, via e-mail or U.S. mail. Mr. Minter circulated a sheet of paper for the Board members to choose the subcommittee on which they would like to serve. If all members preferred one subcommittee to the other, reassignments would need to be made.

Mr. Minter welcomed another new Board member when she arrived, Ms. Rose C. Chu. Mr. Minter asked her to introduce herself. Ms. Chu is a health economist with Actuarial Research Corp. and has been with the firm since 1982. Ms. Chu is vice chairman of the Fairfax County Health Care Advisory Board and chairs the Community Advisory Committee on Affordable Health Care, which oversees three community health centers. Mr. Minter thanked Ms. Chu for her comments and stated that orientation was going to be held after the meeting. He welcomed all members to attend.

Election of Board Officers

Mr. Minter turned the meeting over to Mr. Finnerty for the election of the officers. Mr. Finnerty mentioned that the Bylaws required an election of officers annually at the first meeting of the Board after March 1st. Mr. Finnerty opened the floor to nominations for Chair. Mr. T. Green nominated Mr. Steven L. Minter; Mr. Parmelee seconded. Mr. T. Green mentioned that Mr. Minter had been a good Chairman and asked that Mr. Minter give his vision for DMAS which would also help the new Board Members with their decision. Mr. Minter stated that he believed the Bylaws were clear on the Board's role. DMAS spends a significant amount of money and that DMAS needs to be efficient with the spending, but have no lack in services. He requested the Board do their job researching and supporting the Department. Mr. Minter stated that the Department's relationship with providers is important and that communication needs to improve between DMAS, the General Assembly and the public. No further nominations were received; thus, the nomination process was closed. **The vote for Mr. Minter to serve as Chair**

was 8-yes (Beauchamp, Bigley, Chu, T. Green, Kurup, Neil, Parmelee and Wheat); 2-Absent; Mr. Minter abstained.

Mr. Finnerty turned the meeting back to Mr. Minter who opened the floor to nominations for Vice Chair. Dr. Bigley nominated Mr. James T. Parmelee; Mr. T. Green seconded. Mr. T. Green also asked Mr. Parmelee to give his vision for DMAS which would also help the new Board Members with their decision. Mr. Parmelee stated he had been on the Board for six years and that DMAS had gone through many Directors. No matter who is on the Board or who is the current Director of DMAS, the Department should stay consistent and use common sense in its decisions and actions. No further nominations were received; thus, the nomination process was closed. **The vote for Vice Chair was 8-yes (Beauchamp, Bigley, Chu, T. Green, Kurup, Minter, Neil, and Wheat); 2-Absent; Mr. Parmelee abstained.**

Mr. Finnerty mentioned that the Board also needed to vote on the Board Secretary, who was to be a member of the Director's staff. He said he would like Nancy Malczewski, Public Relations Specialist, to continue to be the secretary of the Board but this may change as organizational changes may occur within the Department. He would notify the Board prior to the change. Mr. Parmelee made the motion to accept; Mr. T. Green seconded. **The vote was 9-yes (Beauchamp, Bigley, Chu, T. Green, Kurup, Minter, Neil, Parmelee and Wheat); 2-Absent.**

As Chair, Mr. Minter has authority to appoint the Chairmen of the committees and will do so. He asked the Board Members to list their preference of which committee they would like to serve and their preference of receiving information from DMAS by e-mail or U.S. mail. Dr. Neil asked if he had to change committees. Mr. Minter answered no, that members can stay on the same committee. Mr. Wheat, who was attending via conference call, stated he would like to serve on the Policy Committee and he preferred to receive documents by e-mail.

Review of Bylaws

Ms. Paige Fitzgerald introduced herself as Legal Counsel to DMAS for five years. She gave an overview of the Bylaws. She noted that under Article 2.5, the Code of Virginia Section number had been changed from §2.1-344 to 2.2-3711. In accordance with "Article 8.1, Amendments, The Bylaws of the Board may be amended at any regular meeting of the Board by a majority vote, provided that the proposed amendment must be submitted in writing at the previous regular meeting of the Board and is included in the notice of the meeting at which a vote is to be taken." During the meeting, Ms. Fitzgerald presented to Mr. Minter and Ms. Malczewski, Board Secretary, the proposed amendment in order that it may be voted upon at the next meeting of the Board. (See attached wording.)

Upon reviewing Article III, Board Authority, there was discussion regarding the duties of the Board and how to assure the Board is kept up-to-date with the latest issues concerning DMAS. A question was raised in reference to the third paragraph under Article 3.1, which provides that the Board may "make," adopt, promulgate and enforce such regulations as may be necessary to carry

out the provision of this chapter. Ms. Fitzgerald stated the Director is vested with the authority of the Board and would not want to burden the Board with the day-to-day minutia of running the Department. The Board needs to hold the Director accountable, as it is incumbent on the Director to communicate. The Board should let Mr. Finnerty know in a few months if more frequent communication is necessary.

A comment was made that it was an Advisory Board, then Mr. T. Green said it was a Policy Board and that Secretary Claude Allen had delineated the differences between an Advisory and Policy Board.

Mr. Minter opened the meeting for Public Comment by Denice K. Garner, previous Board Member. Ms. Garner mentioned that in previous years the Board voted to approve or make changes on regulations. Dr. Bigley stated that years ago the Board was much more aggressive in making determinations in how the Director was performing. The Office of the Attorney General then stepped in to say that the Board was overstepping its authority. Mr. Minter stated that the Board could not run the daily operations and if the Board was not comfortable with the Director's actions, then the Board needs to talk to him. Mr. T. Green stated that while it is up to the Director to run the Department, the Board was appointed by the Governor. He asked Ms. Fitzgerald what duties need to be followed that are in the Code. Again reference was made to Article 3.1 and the word "make." Ms. Fitzgerald said she would provide additional information on the duties/powers of the Board at the next Board meeting. She then continued her overview of the Bylaws.

Article 5.3 states that "Since the Board possesses 'legal powers' which cannot be delegated or surrendered, all recommendations for action by such individual or group must be submitted to the Board for decision." Mr. T. Green asked what cannot be delegated. Mr. Parmelee stated the Director can act on behalf of the Board 95 percent of the time and does not need their authority, but when items are brought before the Board, the Board has to act on whether "A" or "B" will be chosen. Ms. Fitzgerald continued her overview of the Bylaws.

Director's Comments/Overview of General Assembly

Mr. Minter turned the floor over to Mr. Finnerty who told the Board he was honored to be appointed to this position and looked forward to working with the Board. He also stated he is delighted to work with Secretary Woods. He gave a brief overview of his 24 years with the State. He discussed that increasing FAMIS enrollment was a priority of the Governor and DMAS. He introduced Mrs. Cynthia B. Jones as spearheading the FAMIS program; he noted that there will be several changes in this program, and that the Board will be kept apprised of the developments. Mr. Finnerty asked that the Board call him with any questions or issues they may have.

Legislation Passed by the 2002 Session of the General Assembly

Mr. Finnerty stated that he was not going to comment on each bill and resolution but gave a brief overview of the bills and resolutions that directly affect DMAS. The most significant action of the legislature was the Budget Bill. He also cited two bills regarding HB 790 and HB 1062.

Summary of Studies and Reports involving the Department of Medical Assistance Services

Mr. Finnerty went on to summarize the studies. The first, second and most of the third page were recurring studies. The introduced budget continues these studies. He discussed the Revenue Maximization Efforts that will draw down additional federal dollars. Mr. T. Green asked how many years it would take to get this money. Ms. Ganeriwala replied two years, the entire biennium. There are approximately 35 different strategies for DMAS to send to the federal government, *e.g.*, school-based services.

Referencing item 325 #46c, Mr. Finnerty noted that a major study of DMAS will be to find an additional \$10 million in general fund cost savings in the second year (2004) of the biennium. Dr. Neil asked if item 322 #1c, start up funds for group homes, dealt with the Olmstead Decision. Ms. Thorpe, Director of Long Term Care, replied "No," and that one of the problems for the group homes and start-up costs, is that Waiver funds cannot be used for room and board.

At 11:30, Mr. Minter stated that the Board would take a five-minute break.

Budget Update

After the break, Ms. Manju Ganeriwala, Assistant Director of Administration and Finance, gave an overview of the 2002-2004 Budget for DMAS. Ms. Ganeriwala focused on four major issues: (i) trends in the budget; (ii) new initiatives; (iii) savings proposals; and (iv) FAMIS budget amendments. The first portion of the presentation illustrated trends in both the number of recipients and costs. Trend data indicate that while there was a decline in recipients in the mid 1990s-2001, the number is projected to increase in future years. Ms. Ganeriwala also illustrated how the total budget for Medicaid has continued to grow and now exceeds \$3 billion each year.

Ms. Ganeriwala identified and briefly discussed new spending initiatives. These included: (i) an increase in Medicaid utilization and inflation funding; (ii) additional funding for the MR waiver; (iii) coverage for substance abuse treatment; (iv) a rate increase in case management services; and (v) services for the elderly. Much of the remainder of the presentation focused on cost savings that DMAS has to generate. A total of \$162 million in general fund savings must be achieved. These savings will be realized through actions taken in three major areas: targeted savings (\$73 million), revenue maximization (\$86 million); and across-the-board cuts (\$3.2 million). Ms. Ganeriwala identified and discussed each of the key strategies that will be used to generate savings.

With regard to the across-the-board cuts, Mr. T. Green asked at what point does DMAS remain efficient with a three percent cut. Mr. Finnerty and Ms. Ganeriwala commented that all the agencies under Health and Human Resources Secretariat fared better than other State agencies which had seven to eight percent reductions. Mr. Jay stated that all non-Medicaid programs, including administrative costs, were being reduced to meet the budget.

Ms. Ganeriwala finished up her presentation on Budget amendments affecting FAMIS and stated that if the funding in the budget is not sufficient for enrolling children, the General Assembly has authorized DMAS to transfer funds from Medicaid to FAMIS.

Family Access to Medical Insurance Security Plan (FAMIS) Update

Ms. Cynthia Jones, Deputy Director, provided a status report on FAMIS. Ms. Jones gave a brief historical overview of the program, and summarized several program changes enacted by the 2002 General Assembly.

Ms. Jones identified several actions being taken to increase enrollment in FAMIS. She announced that five "Town Hall" meetings will be held across the state to solicit input and suggestions for improving the program. The meetings will be held in Abingdon, Newport News, Lynchburg, Fairfax, and Richmond. Ms. Jones also stated that premiums have been suspended temporarily while a decision is made regarding the appropriate amount to be paid by families in the future. She presented a general timeline for making changes in the program.

Ms. Jones outlined three goals to improve FAMIS: (i) improve outreach; (ii) improve access; and (iii) improve the administration and support for FAMIS.

Ms. Jones stated there will be enhanced outreach activities and the Governor and First Lady will be taking an active role in promoting the program. A copy of the quarterly report for October 1, 2001-December 31, 2001, was included in the presentation.

Transportation Issues

Mr. C. Mack Brankley, Assistant Director of Program Operations, provided an overview of DMAS's non-emergency transportation program. Mr. Brankley gave a brief description and history of the program. He reviewed some changes that had been instituted by both brokers (DynTek and LogistiCare). Mr. Brankley stated that there have been some improvements in the program, but that the agency still receives some complaints.

Mr. Brankley identified and discussed several programs and service issues that DMAS is working to resolve and/or improve. One such area that DMAS is working to resolve is a continuing issue regarding brokers having to provide transportation for mental health/mental retardation "community integration" trips. He concluded by discussing DMAS's plans to establish a Medicaid Transportation Advisory Committee (MTAC). The MTAC will provide a

forum for ongoing communication between DMAS, the brokers, providers, facilities, and recipients.

Old Business

Regulatory Activity Summary

Mr. Minter stated that if the Board had any questions regarding regulatory issues or Emergency Regulations they should contact Ms. Vicki Simmons at 786-7959.

New Business

Mr. T. Green stated that at an earlier meeting of the Board that a Physician Advisory Committee was to be established. Mr. Minter stated that Mr. Finnerty will provide the Board with all advisory committees to determine if Board representation on each would be appropriate.

Ms. Fitzgerald stated Cameron O'Brien from the Office of the Attorney General will attend the orientation meeting this afternoon.

Adjournment:

The meeting was adjourned at 12:55 p.m. The next meeting is scheduled for June 11, 2002.

AMENDMENT LANGUAGE TO BYLAWS
SUBMITTED BY PAIGE FITZGERALD, ESQUIRE AT
APRIL 9, 2002 BOARD OF MEDICAL ASSISTANCE SERVICES MEETING
PREPARED FOR JUNE 11, 2002 MEETING
(OR FIRST MEETING THEREAFTER IF CANCELED FOR ANY REASON)

That paragraph 2.5 of the Bylaws be amended as follows:

2.5 Executive Session – Prior to meeting in an executive session, the Board must vote affirmatively to do so and must announce the purpose of the session. This purpose shall consist of one or more of the purposes for which executive or closed meetings are permitted in accordance with ~~§2.1-344~~ §2.2-3711 of the Code of Virginia, the pertinent portion of the Virginia Freedom of Information Act.

Committee Members

Policy Committee

Alan Bigley
Joseph Green
Elmer Neil—Chair
H. Scott Seal
Marc Wheat

Legislative and Public Affairs Committee

Karen Beauchamp
Rose Chu
Terone Green
Manikoth Kurup
James Parmelee—Chair

Steve Minter, Chair—As Chair can serve on either